

ORIGINAL



0000068410

BEFORE THE ARIZONA CORPORATION COMMISSION

RECEIVED

258

COMMISSIONERS

- MIKE GLEASON, Chairman
- WILLIAM A. MUNDELL
- JEFF HATCH-MILLER
- KRISTIN K. MAYES
- GARY PIERCE

2008 JUL -8 P 3: 06
 AZ CORP COMMISSION
 DOCKET CONTROL

IN THE MATTER OF:

WESTCOR/GOODYEAR, L.L.C., and GLOBE LAND INVESTORS, L.L.C.,

COMPLAINANTS,

VS.

LITCHFIELD PARK SERVICE COMPANY,

RESPONDENT.

DOCKET NO. SW-01428A-08-0234

Arizona Corporation Commission
DOCKETED

JUL -8 2008

| | |
|-------------|-----------|
| DOCKETED BY | <i>mm</i> |
|-------------|-----------|

PROCEDURAL ORDER

BY THE COMMISSION:

On May 6, 2008, Westcor/Goodyear, L.L.C., and Globe Land Investors, L.L.C., (“Complainants”) filed with the Arizona Corporation Commission (“Commission”) a formal complaint against Litchfield Park Service Company (“LPSCO”). The Complainants are developing a regional mall called Estrella Falls, and other surrounding commercial facilities, in a 330 acre area in Goodyear, Arizona, within LPSCO’s Certificate of Convenience and Necessity (“CC&N”) area. The Complainants allege, among other things, that LPSCO refused to accept a check for an amount the Complainants claim represents the final capacity payment for Phase II of the Estrella Falls development pursuant to a 2001 Commercial Agreement between the Complainants and LPSCO.

On May 23, 2008, the Complainants filed an Emergency Motion for Will-Serve Letter and Other Expedited Relief. The Complainants requested that the Commission issue an expedited Show Cause Order and set an expedited hearing date to consider the Complainants’ demand for a will-serve letter from LPSCO to serve Phase II of the Estrella Falls development. Alternatively, the Complainants requested that a Procedural Order be issued to schedule an expedited hearing to consider the will-serve letter demand issue.

1 On May 29, 2008, LPSCO filed an Answer to the Complaint, generally denying the
2 allegations in the Complaint and asserting several affirmative defenses. LPSCO also filed on May
3 29, 2008, a Motion to Stay All Proceedings and Request for Procedural Conference. In its Motion,
4 LPSCO stated that the dispute raised by the Complaint revolves around the amount the Complainants
5 are required to pay to obtain wastewater service from LPSCO for the Estrella Falls development.
6 LPSCO claims that it has filed a Motion to Dismiss a companion complaint filed in Maricopa County
7 Superior Court and, until that Motion has been considered by the Superior Court, LPSCO requests
8 that the Commission stay the proceedings in the above-captioned docket in the interest of judicial and
9 administrative economy. LPSCO also requests that a procedural conference be scheduled, preferably
10 after a ruling by the Superior Court on LPSCO's Motion to Dismiss.

11 By Procedural Order issued May 30, 2008, a procedural conference was scheduled for June
12 13, 2008.

13 On June 13, 2008, the procedural conference was held as scheduled. Following a discussion
14 of the pending motions, and the possibility of an interim solution, the parties agreed to engage in
15 discussions regarding this matter and to reconvene a procedural conference at a later date.

16 On July 7, 2008, the Complainants filed a Second Emergency Motion for Will-Serve Letter
17 and Other Expedited Relief. The Complainants state that the parties were unable to complete a
18 settlement agreement, and claim that an expedited decision is needed to avoid an additional one-year
19 delay in construction of the mall project. The Complainants request that the Commission schedule an
20 expedited Show Cause hearing and direct LPSCO to issue the requested will-serve letter prior to
21 August 31, 2008.

22 **IT IS THEREFORE ORDERED that a procedural conference shall be scheduled for July**
23 **18, at 10:00 a.m.,** at the offices of the Commission, 1200 West Washington, Hearing Room 1,
24 Phoenix, Arizona 85007

25 **IT IS FURTHER ORDERED** that the Ex Parte Rule (A.A.C. R14-3-113 - Unauthorized
26 Communications) shall remain in effect until the Commission's Decision in this matter is final and
27 non-appealable.

28 **IT IS FURTHER ORDERED** that the Administrative Law Judge may rescind, alter, amend,

1 or waive any portion of this Procedural Order either by subsequent Procedural Order or by ruling at
2 hearing.

3 DATED this 8th day of July, 2008.

4
5 

6 DWIGHT D. NODES
7 ASSISTANT CHIEF ADMINISTRATIVE LAW JUDGE

8
9 Copies of the foregoing mailed/delivered
This 8th day of July, 2008 to:

10 Don P. Martin
11 Edward A. Salanga
12 QUARLES & BRADY LLP
13 Renaissance One
14 Two North Central Ave
15 Phoenix, AZ 85004-2391
16 Attorneys for Westcor/Goodyear, L.L.C. and
17 Globe Land Investors, L.L.C.

18 Craig A. Marks
19 CRAIG A. MARKS PLC
20 3420 E. Shea Blvd., Suite 200
21 Phoenix, AZ 85028
22 Attorney for Westcor/Goodyear, L.L.C. and
23 Globe Land Investors, L.L.C.

24 Jay Shapiro
25 Todd Wiley
26 FENNEMORE CRAIG, PC
27 3003 N. Central Ave, Suite 2600
28 Phoenix, AZ 85012-2913
Attorneys for Litchfield Park Service
Company

Bob Dodds
Litchfield Park Service Company
12725 W Indian School Road
Avondale, AZ 85323

Janice Alward, Chief Counsel
Legal Division
ARIZONA CORPORATION COMMISSION
1200 West Washington Street
Phoenix, Arizona 85007

Ernest Johnson, Director
Utilities Division
ARIZONA CORPORATION COMMISSION
1200 West Washington Street
Phoenix, Arizona 85007

ARIZONA REPORTING SERVICE, INC.
2200 North Central Avenue, Suite 502
Phoenix, AZ 85004-1481

By: 
Debbi Person
Secretary to Dwight D. Nodes